

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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NORTHERN VALLEY COMMUNICATIONS, L.L.C.,

Plaintiff,

v.

QWEST COMMUNICATIONS CORPORATION,
Defendant.

Civil Action No. 08-CV-6799
(GBD) (GWG)
ECF Case

**DECLARATION OF CHARLES
W. STEESE
IN SUPPORT OF MOTION
TO TRANSFER ACTION
PURSUANT TO 28 U.S.C.
SECTION 1404(a)**

-----X
I, CHARLES W. STEESE, do depose on oath and state as follows

1. I am the principal of the law firm of Steese & Evans, P.C., 6400 S. Fiddlers Green Circle, Suite 1820, Denver, CO 80111, lead trial counsel to the Defendant, Qwest Communications Corporation ("Qwest"), in the above-captioned action.

2. This case presents a fact pattern known in the telecommunications industry as "traffic pumping." I have represented Qwest in similar traffic pumping lawsuits in the state of Iowa. I have also had involvement in a lawsuit pending before the Federal Communications Commission ("FCC"). I have participated in obtaining substantial discovery in the Iowa case pending before the Iowa Utilities Board, and in the action pending before the FCC.

3. Qwest intends to depose, and call as witnesses several non-officer employees of Northern Valley, including Rick Stugelmayer, Northern Valley's Plant Operations and Sales Manager; Russ Claussen, Network Operations Manager; and Kristi Larson, Marketing Director. These are the types of employees who, in my experience in other traffic pumping lawsuits, have the necessary detailed information about interactions with FCSCs and how calls are directed

through the network. Based on my review of Northern Valley's website, it appears that all of these persons are located in South Dakota.

4. Based on Qwest's investigation to date of Northern Valley's traffic pumping and its known Free Calling Service Companies (FCSCs), Qwest is not aware of any persons located within the State of New York or within 100 miles of the Court, whom Qwest intends to call as potential witnesses for this case. It is possible that Qwest will call a witness from VAPPs, Inc., which is headquartered in Hoboken, New Jersey.

5. I expect that a substantial amount of the relevant evidence in this case will consist of documents in Northern Valley's office in South Dakota (without limitation, documents such as call detail records on the traffic in question; contracts and correspondence with FCSCs; documentation regarding its various network equipment; correspondence with others regarding traffic pumping, etc.) and personal knowledge of its officers and technical network employees.


6. In addition, I expect Qwest will request a physical inspection of Northern Valley's central offices and its parent (James Valley Cooperative Telephone Company of Groton)'s central offices as well. James Valley is likewise located in South Dakota.

7. Qwest will assert counterclaims, including counterclaims against Northern Valley, some of which will be based on South Dakota law.

8. Qwest's travel costs and expenditure of time for an action in the South Dakota District Court will be substantially less than for an action in the Southern District of New York.

9. ***Attachment A*** to this declaration is a true and correct copy of Northern Valley's civil action cover sheet in this case.

I declare under penalty of perjury that the foregoing is true and correct, executed this 29th
day of August, 2008.



Charles W. Steese

ATTACHMENT A

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

DEFENDANTS

Qwest Communications Corporation

ATTORNEYS (IF KNOWN)

61 Broadway, Suite 1415, NY, NY 10006 (212 953-3400)

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

47 U.S.C. §§ 201, et seq.; 28 U.S.C. § 1332 (Breach of Federal Tariff for Long Distance Telephone Access Service)

Has this or a similar case been previously filed in SDNY at any time? No? ☐ Yes? ☒ Judge Previously Assigned William H. Pauley, III

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☒ Yes ☐ If yes, give date _____ & Case No. _____

NATURE OF SUIT

TORTS		ACTIONS UNDER STATUTES					
CONTRACT		PERSONAL INJURY	PERSONAL INJURY	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
[] 110 INSURANCE	[] 310 AIRPLANE	[] 362 PERSONAL INJURY - MED MALPRACTICE	[] 810 AGRICULTURE	[] 422 APPEAL	[] 400 STATE REAPPORTIONMENT		
[] 120 MARINE	[] 315 AIRPLANE PRODUCT LIABILITY	[] 365 PERSONAL INJURY PRODUCT LIABILITY	[] 820 OTHER FOOD & DRUG	[] 423 WITHDRAWAL 28 USC 157	[] 410 ANTI-TRUST		
[] 130 MILLER ACT	[] 320 ASSAULT, LIBEL & SLANDER	[] 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY	[] 825 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881		[] 430 BANKS & BANKING		
[] 140 NEGOTIABLE INSTRUMENT	[] 330 FEDERAL EMPLOYERS' LIABILITY		[] 830 LIQUOR LAWS	PROPERTY RIGHTS	[] 450 COMMERCE		
[] 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	[] 340 MARINE	PERSONAL PROPERTY	[] 840 RR & TRUCK	[] 820 COPYRIGHTS	[] 460 DEPORTATION		
[] 151 MEDICARE ACT	[] 345 MARINE PRODUCT LIABILITY	[] 370 OTHER FRAUD	[] 850 AIRLINE REGS	[] 830 PATENT	[] 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)		
[] 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)	[] 350 MOTOR VEHICLE	[] 371 TRUTH IN LENDING	[] 860 OCCUPATIONAL SAFETY/HEALTH OTHER	[] 840 TRADEMARK	[] 480 CONSUMER CREDIT		
[] 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS	[] 353 MOTOR VEHICLE PRODUCT LIABILITY	[] 380 OTHER PERSONAL PROPERTY DAMAGE	[] 690 LABOR	SOCIAL SECURITY	[] 480 CABLE/SATELLITE TV		
[] 160 STOCKHOLDERS SUITS	[] 360 OTHER PERSONAL INJURY	[] 385 PROPERTY DAMAGE PRODUCT LIABILITY	[] 710 FAIR LABOR STANDARDS ACT	[] 861 HIA (1395ff)	[] 810 SELECTIVE SERVICE SECURITIES/COMMODITIES/ EXCHANGE		
[] 190 CONTRACT	ACTIONS UNDER STATUTES		[] 720 LABOR/MGMT RELATIONS	[] 862 BLACK LUNG (923)	[] 875 CUSTOMER CHALLENGE		
[] 195 CONTRACT PRODUCT LIABILITY	CIVIL RIGHTS	PRISONER PETITIONS	[] 730 LABOR/MGMT REPORTING & DISCLOSURE ACT	[] 863 DWORKIN/WV (405(g))	[] 890 OTHER STATUTORY ACTIONS		
[] 196 FRANCHISE	[] 441 VOTING	[] 510 MOTIONS TO VACATE SENTENCE 28 USC 2255	[] 740 RAILWAY LABOR ACT	[] 864 SSID TITLE XVI	[] 891 AGRICULTURAL ACTS		
REAL PROPERTY	[] 442 EMPLOYMENT	[] 510 MOTIONS TO VACATE SENTENCE 28 USC 2255	[] 750 OTHER LABOR LITIGATION	[] 865 RSI (405(g))	[] 892 ECONOMIC STABILIZATION ACT		
[] 210 LAND	[] 443 HOUSING/ ACCOMMODATIONS	[] 530 HABEAS CORPUS	[] 791 EMPL RET INC SECURITY ACT	FEDERAL TAX SUITS	[] 893 ENVIRONMENTAL MATTERS		
[] 220 FORECLOSURE	[] 444 WELFARE	[] 535 DEATH PENALTY		[] 870 TAXES (U.S. Plaintiff or Defendant)	[] 894 ENERGY ALLOCATION ACT		
[] 230 RENT LEASE & EJECTMENT	[] 445 AMERICANS WITH DISABILITIES - EMPLOYMENT	[] 540 MANDAMUS & OTHER CIVIL RIGHTS	[] 482 NATURALIZATION APPLICATION	[] 871 IRS-THIRD PARTY 28 USC 7609	[] 895 FREEDOM OF INFORMATION ACT		
[] 240 TORTS TO LAND	[] 446 AMERICANS WITH DISABILITIES - OTHER	[] 550 CIVIL RIGHTS PRISON CONDITION	[] 463 HABEAS CORPUS-ALIEN DETAINEE		[] 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE		
[] 245 TORT PRODUCT LIABILITY	[] 440 OTHER CIVIL RIGHTS		[] 485 OTHER IMMIGRATION ACTIONS		[] 950 CONSTITUTIONALITY OF STATE STATUTES		
[] 290 ALL OTHER REAL PROPERTY							

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE

JUDGE Paul XV

DOCKET NUMBER 074V D82

JURY DEMAND: ☒ YES ☐ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

SAME ISSUE, see also 08CV6798
(same plaintiff; same